

)	
UNITED STATES OF AMERICA,)	
Department of Justice)	
Antitrust Division)	
1401 H Street, NW, Suite 3000)	
Washington, DC 20530)	Civil No.
)	
Plaintiff,)	Filed:
)	
v.)	
)	
ALLIED WASTE INDUSTRIES, INC.,)	
15880 Greenway-Hayden Loop, Suite 100)	
Scottsdale, Arizona 85260 and)	
)	
REPUBLIC SERVICES, INC.,)	
110 S.E. 6th Street)	
Ft. Lauderdale, FL 33301)	
)	
Defendants.)	
)	

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the acquisition of certain waste hauling and disposal assets by Defendants Allied Waste Industries, Inc. (“Allied”) and Republic Services, Inc. (“Republic”) and to obtain equitable relief and other relief as appropriate. Plaintiff complains and alleges as follows:

1. On July 28 and October 7, 1999, Allied and Republic entered into separate asset purchase agreements in which they agreed to exchange certain waste-hauling and disposal assets. The proposed transactions, identified below, would lessen competition substantially in waste collection and/or disposal services: (1) Allied's acquisition of hauling assets in Albany, New York; (2) Allied's acquisition of hauling assets in Augusta, Georgia; (3) Allied's acquisition of hauling assets in Memphis, Nashville and Clarksville, Tennessee; (4) Allied's acquisition of disposal assets in New York, New York; (5) Allied's acquisition of hauling assets in Norfolk, Virginia; (6) Allied's acquisition of hauling assets in Okaloosa, Escambia and Santa Rosa counties, Florida ("Gulf Coast, Florida"); (7) Republic's acquisition of disposal assets in Anderson, Indiana; (8) Republic's acquisition of hauling assets in Columbus, Ohio; (9) Republic's acquisition of hauling assets in Lakeland, Florida; (10) Republic's acquisition of hauling assets in Louisville, Kentucky and Sellersburg, Indiana; (11) Republic's acquisition of hauling and disposal assets in Macon, Georgia; and (12) Republic's acquisition of hauling assets in Monmouth, Burlington and Camden counties, New Jersey.

2. Allied and Republic are two of only a few providers of waste collection or disposal services in each of the identified areas. Unless the twelve acquisitions are enjoined, consumers of waste collection and disposal services will likely pay higher prices and receive fewer services as a consequence of the elimination of the vigorous competition between defendants Allied and Republic.

I.

JURISDICTION AND VENUE

3. This action is filed by the United States of America under Section 15 of the Clayton

Act, 15 U.S.C. § 25, to prevent and restrain the violation by defendants of Section 7 of the Clayton Act, 15 U.S.C. § 18.

4. Allied is located in and transacts business in the District of Columbia, and Republic submits to the personal jurisdiction of the District of Columbia in this proceeding. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

5. Defendants Allied and Republic collect municipal solid waste from residential, commercial, and industrial customers, and they own and operate transfer stations, landfills, and incinerators, which process and dispose of municipal solid waste. In their waste collection and waste disposal businesses, defendants make sales and purchases in interstate commerce, ship waste in the flow of interstate commerce, and engage in activities substantially affecting interstate commerce. The Court has jurisdiction over this action and over the parties pursuant to 15 U.S.C. § 22 and 28 U.S.C. §§ 1331 and 1337.

II.

DEFINITIONS

6. "MSW" means municipal solid waste, a term of art used to describe solid putrescible waste generated by households and commercial establishments such as retail stores, offices, restaurants, warehouses, and non-manufacturing activities in industrial facilities. MSW does not include special handling waste (*e.g.*, waste from manufacturing processes, regulated medical waste, sewage, and sludge), hazardous waste, or waste generated by construction or demolition sites.

7. “Small container commercial waste collection service” means the business of collecting MSW from commercial and industrial accounts, usually in “dumpsters” (*i.e.*, a small container with one to ten cubic yards of storage capacity), and transporting or “hauling” such waste to a disposal site by use of a front-or rear-end loader truck. Typical commercial waste collection customers include office and apartment buildings and retail establishments (e.g. stores and restaurants).

8. “Transfer station” means an intermediate disposal site, often used in more densely populated areas, for the processing and temporary storage of solid waste before transfer, in bulk, to more distant facilities for final disposal.

9. “Albany, NY area” means the City of Albany and Albany, Schenectady, Saratoga, and Rensselaer counties, New York.

10. “Anderson, IN area” means the City of Anderson and Madison County, Indiana.

11. “Augusta, GA area” means the City of Augusta, Richmond and Columbia counties, Georgia, and Aiken County, South Carolina.

12. “Burlington and Camden Counties, NJ area” means Burlington and Camden counties, New Jersey.

13. “Clarksville, TN area” means the City of Clarksville and Montgomery, Dickson, the northwestern part of Cheatham, and the western part of Robertson counties, Tennessee.

14. “Columbus, OH area” means the City of Columbus and Franklin and Delaware counties, Ohio.

15. “Gulf Coast, FL area” means Escambia, Santa Rosa, and Okaloosa counties, Florida.

16. “Lakeland, FL area” means Polk County, Florida.
17. “Louisville, KY/ Sellersburg, IN area” means the cities of Louisville, Kentucky and Sellersburg, Indiana; Jefferson County, Kentucky; and the parts of Floyd and Clark counties, Indiana abutting Jefferson County, Kentucky.
18. “Macon, GA area” means the City of Macon and Bibb, Peach and parts of Houston, Jones and Monroe counties, Georgia.
19. “Memphis, TN area” means Shelby County, Tennessee; Desoto County, Mississippi, and Crittenden County, Arkansas.
20. “Monmouth County, NJ area” means the City of Marlboro and Monmouth County, New Jersey.
21. “Nashville, TN area” means the City of Nashville and Davidson, Sumner, Williamson, Rutherford, Wilson, the southeastern part of Robertson, and the eastern part of Cheatham counties, Tennessee.
22. “New York City, NY area” means the Borough of Brooklyn, New York.
23. “Norfolk, VA area” means the cities of Chesapeake, Suffolk, Virginia Beach, Norfolk, Poquoson, Newport News and Portsmouth, and York, Surry, James City, Southampton, and Isle of Wight counties, Virginia.

III.

DEFENDANTS AND THE TRANSACTION

24. Allied is a Delaware corporation with its principal office in Scottsdale, Arizona. Allied is the nation’s second largest waste hauling and disposal company. It is engaged in providing waste collection and disposal services throughout the United States. In 1999, Allied

reported total revenues of approximately \$6 billion.

25. Republic is a Delaware corporation with its principal office in Ft. Lauderdale, Florida. Republic is engaged in providing waste collection and disposal services throughout the United States. In its 1998 fiscal year, Republic reported total revenues of approximately \$1.8 billion.

26. On July 28 and October 7, 1999, in twelve (12) separate purchase agreements, defendants agreed to exchange assets of various subsidiary companies (“the acquisitions”). Pursuant to the purchase agreements, Allied would acquire from Superior: hauling assets in Albany, New York; hauling assets in Augusta, Georgia; hauling assets in Memphis, Nashville and Clarksville, Tennessee; disposal assets in New York, New York; hauling assets in Norfolk, Virginia; and hauling assets in Okaloosa, Escambia and Santa Rosa counties, Florida. In exchange, pursuant to other agreements, Republic would acquire from Allied: disposal assets in Anderson, Indiana; hauling assets in Columbus, Ohio; hauling assets in Lakeland, Florida; hauling assets in Louisville, Kentucky and Sellersburg, Indiana; hauling and disposal assets in Macon, Georgia; and hauling assets in Monmouth, Burlington and Camden counties, New Jersey.

IV.

TRADE AND COMMERCE

A. The Relevant Service Markets

Small Container Commercial Waste Collection Service

27. Waste collection firms, or “haulers,” collect MSW from residential, commercial and industrial establishments, and transport the waste to a disposal site, such as a transfer station,

sanitary landfill or incinerator, for processing and disposal. Private waste haulers typically contract directly with customers for the collection of waste generated by commercial accounts. MSW generated by residential customers, on the other hand, is often collected by either local governments or by private haulers pursuant to contracts bid by, or franchises granted by, municipal authorities.

28. Small container commercial waste collection differs in many important respects from the collection of residential or other types of waste. An individual commercial customer typically generates substantially more MSW than a residential customer. To handle this high volume of MSW efficiently, haulers provide commercial customers with small dumpsters for storing the waste. Haulers organize their commercial accounts into routes, and collect and transport the MSW generated by these accounts in vehicles uniquely well suited for small container waste collection -- primarily front-end loader ("FEL") trucks. Less frequently, haulers may use more maneuverable, but less efficient, rear-end loader ("REL") trucks, especially in those areas in which a collection route includes narrow alleyways or streets.

29. On a typical small container commercial waste collection route, an operator drives a FEL vehicle to the customer's container, engages a mechanism that grasps and lifts the container over the front of the truck, and empties the container into the vehicle's storage section, where the waste is compacted and stored. The operator continues along the route, collecting MSW from each of the commercial accounts until the vehicle is full. The operator then drives the FEL truck to a disposal facility, such as a transfer station, landfill or incinerator, and empties the contents of the vehicle.

30. In contrast to a commercial collection route, a residential waste collection route is

significantly more labor intensive. The customer's MSW is stored in much smaller containers (e.g., garbage bags or trash cans) and instead of FEL trucks, waste collection firms routinely use REL or side-load trucks, manned by larger crews (usually, two-or three-person teams). On residential routes, the crews generally hand-load the customer's MSW, typically by tossing garbage bags and emptying trash cans into the vehicle's storage section. Because of the differences in the collection process, residential customers and commercial customers usually are organized into separate routes. For a variety of reasons, other types of collection activities, such as roll-off containers (typically used for construction debris) and collection of liquid or hazardous waste, are also rarely combined with commercial waste collection activities.

31. The differences in the types and volume of MSW collected and in the equipment used in collection distinguish small container commercial waste collection from all other types of waste collection activities. These differences mean that small container commercial waste collection firms can profitably increase their charges for small container commercial waste collection services without losing significant sales or revenues to firms engaged in the provision of other types of waste collection services. Thus, small container commercial waste collection service is a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisitions under Section 7 of the Clayton Act.

Roll-Off Waste Collection Service

32. Roll-off waste collection customers typically generate bulkier items of waste and/or substantially larger volumes of waste than residential or small container commercial waste customers from sources such as construction sites or industrial plants. Because of its characteristics (e.g. construction debris) and volume, roll-off waste is deposited by the

customer/generator into a disposal container (usually 20 to 40 cubic yards in size) which is larger than those routinely used in small container commercial collection (usually one to 10 cubic yards in size). The roll-off container, when filled, is picked up by roll-off trucks, which are uniquely well suited for roll-off waste collection, and driven to a nearby disposal site, where the container's contents are disposed.

33. In addition to differences in container size, other factors distinguish roll-off waste collection from small container commercial and other types of waste collection. Small container commercial service vehicles routinely employ compaction systems on the truck to increase storage capacity, and can empty numerous small containers located on a scheduled route before being driven to a disposal site. Roll-off vehicles have no compaction system on board and are designed to carry only one large container at a time to a disposal site. Roll-off waste compactors are generally located at the site of the roll-off container, thereby permitting the customer to increase the container's on-site storage capacity. While small container commercial waste collection typically involves a FEL truck making regular stops on pre-scheduled routes to empty numerous containers at multiple customer locations, roll-off waste collection is often performed on an "on-call" basis for customers whose waste is not part of any route. The front-end load containers used by small container commercial collection customers cannot be serviced by roll-off trucks. Likewise, roll-off customers generate volumes of waste which are too large to be serviced by a FEL truck on a pre-scheduled commercial route. Finally, prices for small container service are influenced principally by the density of the routes served by each vehicle; prices for roll-off services are influenced primarily by the distance of the customer's location from the hauler's location and the disposal site, the time required to travel those distances, and the cost of disposal

at the disposal site.

34. The differences in size, type, and volumes of roll-off waste and the equipment used to collect it distinguish roll-off waste collection from all other waste collection services. These differences mean that roll-off waste collection firms can profitably increase their charges for roll-off waste collection services without losing significant sales or revenues to firms engaged in the provision of other types of waste collection services. Thus, roll-off waste collection service is a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisitions under Section 7 of the Clayton Act.

Disposal of MSW

35. MSW has physical characteristics that readily distinguish it from other liquid or solid waste. Federal, state and local safety, environmental, zoning, and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. An MSW disposal facility must be located on approved types of land and operated under prescribed procedures. For instance, in many states, most MSW is disposed of in landfills, which are permitted under and regulated by the state. Permit restrictions often impose severe limitations on the type and amount of waste that can be disposed of at landfills. For a number of reasons, landfills may not be located close to where the waste is generated. In such instances, the waste is brought to a nearby transfer station where it is compacted and combined with other waste and then transported to a more distant permanent disposal site. Anyone who fails to dispose of MSW in an approved facility can be subject to severe civil and criminal penalties.

36. There are no good substitutes for MSW disposal. Firms that compete in the disposal of MSW can profitably increase their charges to haulers of MSW without losing significant sales

to any other firms. Thus, disposal of MSW is a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

B. The Relevant Geographic Markets

Small Container Commercial Waste Collection Service

37. Small container commercial waste collection services are generally provided in highly localized areas because to operate efficiently and profitably, a hauler must have sufficient density in its commercial waste collection operations; *i.e.*, a large number of commercial accounts that are reasonably close together. In addition, a FEL or REL vehicle cannot be efficiently driven long distances without collecting significant amounts of MSW, which makes it economically impractical for a small container commercial waste collection firm to serve metropolitan areas from a distant base. Haulers, therefore, generally establish garages and related facilities within each major local area served.

38. Local small container commercial waste collection firms in the Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA areas can profitably increase charges to local customers without losing significant sales to more distant competitors. Each of these areas is a section of the country, or relevant geographic market, for purposes of analyzing the effects of the acquisitions under Section 7 of the Clayton Act.

Roll-Off Waste Collection Service

39. Roll-off waste collection services are generally provided in localized areas because a roll-off truck cannot be efficiently or profitably driven significantly longer distances than those

driven by a competitor to collect and dispose of the waste. It is economically impractical for a roll-off waste collection firm to serve metropolitan areas from a distant base. Roll-off waste haulers, therefore, generally establish garages and related facilities within each major local area served.

40. Local roll-off waste collection firms in the Macon, GA area can profitably increase charges to local customers without losing significant sales to more distant competitors. The Macon, GA area is a section of the country, or relevant geographic market, for purposes of analyzing the effects of the acquisitions under Section 7 of the Clayton Act.

Disposal of MSW

41. MSW is generally transported by collection trucks to landfills and transfer stations, and the availability of disposal sites close to a hauler's routes is a major element that determines a hauler's competitiveness and profitability. The cost of transporting waste to a disposal site is often a substantial component of the cost of disposal. Although, where available, MSW can be transported to distant landfills through transfer stations using large transfer trailer trucks, the use of transfer stations adds fixed transportation and processing costs. The cost advantage of local landfills limits the areas where MSW can be economically transported and disposed of by haulers and creates localized markets for MSW disposal services.

42. Due to the high costs of transporting MSW, and the substantial travel time to other disposal facilities based on distance, natural barriers, and congested roadways, haulers of MSW from the Anderson, IN and New York City, NY areas, respectively, are limited to transfer station disposal sites located in each of their local areas. Virtually all of the MSW generated in each of these areas is disposed of in transfer stations in each of their local areas. In the event of a small

but significant increase in the price of the disposal of MSW in the Anderson, IN or New York City, NY areas, haulers of MSW generated in each area would not turn to disposal facilities outside their area.

43. Firms that compete in the disposal of MSW generated in the Anderson, IN or New York City, NY areas can profitably increase their charges for disposal of MSW generated in each area without losing significant sales to more distant disposal sites. The Anderson, IN and New York City, NY areas are therefore sections of the country, or relevant geographic markets, for purposes of analyzing the competitive effects of the acquisition under Section 7 of the Clayton Act.

C. Reduction in Competition As a Consequence of the Acquisition

44. Allied and Republic directly compete in small container commercial waste collection service in a number of markets nationwide, including the areas of: Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA. In each of these markets, Allied and Republic each account for a substantial share of total revenues from commercial waste collection services.

45. Allied and Republic directly compete in roll-off waste collection service in a number of markets nationwide, including the Macon, GA area. In the Macon, GA market, Allied and Republic each account for a substantial share of total revenues from roll-off waste collection services.

46. Allied and Republic directly compete in the disposal of waste in a number of markets nationwide, including the Anderson, IN; New York City, NY; and Macon, Georgia

areas. In these markets, Allied and Republic each account for a substantial share of MSW disposal capacity.

Albany, NY Area

47. In the Albany, NY area, the proposed acquisition would reduce from four to three the number of significant competitors in the collection of small container commercial waste. After the acquisition, Allied would control over 35 percent--and two firms more than 80 percent--of the small container commercial waste hauling market, which has annual revenues of about \$17 million.

Anderson, IN Area

48. In the Anderson, IN area, almost all of the MSW generated is disposed of in one of three transfer stations. In 1998, for example, these three transfer stations disposed of over 85 percent of the MSW generated in the Anderson, IN area. The proposed acquisition would reduce from three to two the number of significant competitors for the disposal of MSW in the Anderson, IN area. After the acquisition, Republic would own two of the three transfer stations, which together would control in excess of 65 percent of the MSW disposal market, which has annual revenues in excess of \$3 million.

Augusta, GA Area

49. In the Augusta, GA area, the acquisition would reduce from three to two the number of significant competitors in the collection of small container commercial waste. After the acquisition, Allied would control over 40 percent--and two firms would control over 80 percent--of the small container commercial waste hauling market, which has annual revenues of about \$8 million.

Burlington and Camden Counties, NJ Area

50. The acquisition would reduce from three to two the number of significant firms that compete in the collection of small container commercial waste in the Burlington and Camden Counties, NJ area. After the acquisition, Republic would control about 31 percent--and two firms over 80 percent--of the small container commercial waste hauling market, which has annual revenues exceeding \$24 million.

Clarksville, TN Area

51. In the Clarksville, TN area, the acquisition would reduce from five to four the number of significant firms competing in the collection of small container commercial waste. After the acquisition, Allied would control over 40 percent and two firms would control over 65 percent of the small container commercial waste hauling market, which has annual revenues of about \$5 million.

Columbus, OH Area

52. In the Columbus, OH area, the proposed acquisition would reduce from four to three the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Republic would control over 50 percent--and two firms over 80 percent-- of the small container commercial waste hauling market, which has annual revenues of about \$29 million.

Gulf Coast, FL Area

53. In the Gulf Coast, FL area, the acquisition would reduce from four to three the number of significant competitors in the collection of small container commercial waste. After the acquisition, Allied would control over 50 percent--and two firms more than 90 percent-- of the

small container commercial waste hauling market, which has annual revenues of about \$10 million.

Lakeland, FL Area

54. In the Lakeland, FL area, the acquisition would reduce from two to one the number of significant competitors in the collection of small container commercial waste. After the acquisition, Allied would be a monopolist controlling over 98 percent of the small container Commercial waste hauling market, which has annual revenues of about \$5 million.

Louisville, KY/Sellersburg, IN Area

55. The acquisition would reduce from four to three the number of significant firms that compete in the collection of small container commercial waste in the Louisville, KY/Sellersburg, IN area. After the acquisition, Republic would control over 50 percent--and two firms about 90 percent--of the small container commercial waste hauling market, which has annual revenues exceeding \$22 million.

Macon, GA Area

56. In the Macon, GA area, the acquisition would reduce from two to one the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Republic would control over 85 percent of the small container commercial waste hauling market, which has annual revenues of about \$5 million.

57. In the Macon, GA area, the acquisition would also combine the two largest firms that compete in roll-off waste collection service. After the acquisition, Republic would control over 60 percent of the roll-off hauling market, which has annual revenues of about \$8 million.

Memphis, TN Area

58. The proposed acquisition would reduce from four to three the number of significant firms that compete in small container commercial waste collection service in the Memphis, TN area. After the acquisition, Allied would control roughly 69 percent--and two firms over 90 percent--of the small container commercial waste hauling market, which has annual revenues exceeding \$25 million.

Monmouth County, NJ Area

59. The acquisition would reduce from four to three the number of significant firms that compete in the collection of small container commercial waste in the Monmouth County, NJ area. After the acquisition, Republic would control about 40 percent--and three firms over 75 percent--of the small container commercial waste hauling market, which has annual revenues of about \$18 million.

Nashville, TN Area

60. In the Nashville, TN area, the acquisition would reduce from three to two the number of significant firms competing in the collection of small container commercial waste. After the acquisition, Allied would control over 50 percent--and two firms over 90 percent--of the small container commercial waste hauling market, which has annual revenues of about \$31 million.

New York City, NY Area

61. In the New York City, NY area, the acquisition would reduce from five to four the number of significant firms competing to dispose of commercial MSW. After the acquisition, Allied would control roughly 30 percent--and two firms about 66 percent--of the New York City, NY area MSW disposal market, which has annual revenues of about \$40 million.

Norfolk, VA Area

62. In the Norfolk, VA area, the acquisition would reduce from three to two the number of significant firms competing in the collection of small container commercial waste. After the acquisition, Allied would control over 55 percent--and two firms over 90 percent--of the small container commercial waste hauling market, which has annual revenues of about \$28 million.

D. Entry Into Commercial Waste Collection of MSW

63. Significant new entry into small container commercial waste collection service is difficult and time-consuming in the Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA areas. A new entrant into small container commercial waste collection service cannot provide a significant competitive constraint on the prices charged by market incumbents until it achieves minimum efficient scale and operating efficiencies comparable to existing firms. In order to obtain comparable operating efficiency, a new firm must achieve route density comparable to existing firms. However, the incumbents' use of price discrimination and long-term contracts prevents new entrants from winning a large enough base of customers to achieve efficient routes in sufficient time to constrain the post-acquisition firm from significantly raising prices after the transaction.

E. Entry Into Roll-Off Waste Collection

64. Roll-off haulers typically deal with larger waste volumes from a single customer for which disposal costs constitute a greater percentage of the total revenue received for the

service. Access to competitive disposal sites and reasonable disposal costs are important to providers of roll-off collection services. If the major roll-off collection competitor in a market also controls the primary disposal site(s) therein, other roll-off competitors are at a large disadvantage and entry is difficult. If the major roll-off competitor in a market likewise precludes significant competition through the use of long-term customer contracts which automatically renew, entry by new competitors and growth from existing ones are further hindered.

65. In the Macon, GA area, the proposed acquisitions would result in Republic controlling more than 60 percent of the roll-off waste collection market at the same time it owns the two primary disposal options which any roll-off competitor would most likely use. Republic would thus be in a position to raise the disposal costs at the landfill and transfer stations which it would own to any new or existing roll-off collection competitor in the Macon, GA area. Entry would also be made more difficult by Republic's use of long-term, automatically renewing contracts for roll-off service. The significant share of the roll-off collection market which Republic would have, its control of the primary disposal sites in the area, and its frequent use of long-term, automatically renewing contracts with roll-off collection customers, would make entry into the Macon, GA roll-off waste collection market difficult, and unlikely to prevent market incumbents from significantly raising prices for the collection of roll-off waste following the acquisition.

F. Entry Into Disposal of MSW

66. Significant new entry into the disposal of MSW in the Anderson, IN and New York City, NY areas would be difficult and time-consuming. Obtaining a permit to construct a new disposal facility or to expand an existing one is a costly and time-consuming process, which

typically takes many years to conclude. Local public opposition often makes it more difficult and costly, and increases the time and uncertainty of successfully permitting a facility. MSW landfills can only accept waste up to their permitted daily capacity and have a finite life span. Suitable landfills are difficult and time-consuming to obtain, and sometimes difficult to expand, because of the scarcity of suitable land, local resident opposition, environmental concerns, and government regulation. In areas where it is not practical to construct and permit a landfill, it is necessary to put in a transfer station to get the waste to a more distant landfill. In such areas, many of the problems associated with the permitting and construction of a landfill could make it difficult to permit and construct a transfer station. Anderson, IN and New York City, NY are two such areas. In the Anderson, IN and New York City, NY areas, entry by any new MSW disposal facility would be an extremely costly and time-consuming process, and unlikely to prevent market incumbents from significantly raising prices for the disposal of MSW following the acquisition.

G. Harm to Competition

67. The acquisitions by Allied and Republic would remove a significant competitor in small container commercial waste collection service, roll-off waste collection service, and/or the disposal of MSW, in already highly concentrated and difficult-to-enter markets. In each of these markets, the resulting substantial increase in concentration, loss of competition, and absence of reasonable prospect of significant new entry or expansion by market incumbents, ensures that consumers will pay substantially higher prices for collection of small container commercial waste, the collection of roll-off waste, or the disposal of MSW.

V.

VIOLATION ALLEGED

68. On July 28 and October 7, 1999, Allied and Republic entered into separate asset purchase agreements in which they agreed to exchange certain waste hauling and disposal assets. The likely effect of these acquisitions is to substantially lessen competition and to tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act.

69. The transactions likely will have the following effects, among others:

- a. competition generally in small container commercial waste collection service in the Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA area markets will be lessened substantially;
- b. actual and potential competition between Allied and Republic in small container commercial waste collection service in the Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA area markets will be eliminated;
- c. prices charged by small container commercial waste collection firms in the Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA area markets will likely increase;

- d. competition generally in disposal of MSW in the Anderson, IN and New York City, NY area markets will be lessened substantially;
- e. actual and potential competition between Allied and Republic in disposal of MSW in the Anderson, IN and New York City, NY area markets will be eliminated;
- f. prices for disposal of MSW in the Anderson, IN and New York City, NY area markets likely will increase;
- g. competition generally in roll-off waste collection service in the Macon, GA area market will be lessened substantially;
- h. actual and potential competition between Allied and Republic in roll-off waste collection service in the Macon, GA area market will be eliminated; and
- . prices charged by roll-off waste collection firms in the Macon, GA area market will likely increase.

VI.

REQUESTED RELIEF

Plaintiff requests:

1. That defendants' proposed sales of hauling assets in the Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA area markets, and defendants' proposed sales of MSW disposal assets in the Anderson, IN; Macon, GA and New York City, NY area markets be adjudged and decreed to be unlawful and in violation of Section 7 of the Clayton Act;
2. That defendants be permanently enjoined from carrying out the acquisitions of those assets in the separate purchase agreements dated July 28 and October 7, 1999, or from entering into or carrying out any agreement, understanding or plan, the effect of which would be to exchange those assets between the defendants;
3. That plaintiff receive such other and further relief as the case requires and the Court deems proper; and
4. That plaintiff recover the costs of this action.

Dated: June 21 , 2000.

Respectfully submitted,

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APPENDIX A

HERFINDAHL-HIRSCHMAN INDEX CALCULATIONS

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise antitrust concerns under the Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission. See *Merger Guidelines* §1.51.